V. DISCOVERY

Civil L.R. 26.1 Disclosure of Expert Testimony

(a) Each party must disclose to every other party the substance of all expert witness evidence that the party intends to present at trial, including expert witness evidence of hybrid fact/expert witnesses such as treating physicians.

(b) Except as otherwise directed by the court, the disclosure must be in the form of a written report prepared and signed by the witness which includes a statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered in forming such opinions; any exhibits to be used as a summary of or support for such opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid to the expert; and a listing of any other cases in which the witness has testified as an expert at trial or in deposition within the preceding four years.

(c) Unless the Court designates a different time, the disclosure must be made at least 90 days before the date the case has been directed to be ready for trial, or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Paragraph (a), within 30 days after the disclosure.

Civil L.R. 26.2 Completion of Discovery

Unless the Court orders otherwise, all discovery must be completed 30 days prior to the date on which trial is scheduled. Completion of discovery means that discovery (including depositions to preserve testimony for trial) must be scheduled to allow depositions to be completed, interrogatories and requests for admissions to be answered, and documents to be produced prior to the deadline and in accordance with the provisions of the Federal Rules of Civil Procedure. For good cause, the Court may extend the time during which discovery may occur or may reopen discovery.

Civil L.R. 26.3 Standard Definitions Applicable to All Discovery

(a) The full text of the definitions set forth in paragraph (b) is deemed incorporated by reference in all discovery, may not be varied by litigants, but must not preclude (i) the definition of other terms specific to the particular litigation, (ii) the use of abbreviations, or (iii) a more narrow definition of a term defined in paragraph (b).

(b) Definitions. The following definitions apply to all discovery:

(1) Communication. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

(2) Document. The term "document" is defined to be synonymous in meaning and equal in scope of the usage of this term in Fed.R.Civ.P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term.

(3) Identify.

(i) With Respect to Persons. When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

(ii) With Respect to Documents. When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

(4) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity, or association.

Civil L.R. 26.4 Confidentiality of Discovery Materials

(a) Upon a showing of good cause, the Court may enter a protective order regarding confidentiality of all documents produced in the course of discovery, all answers to interrogatories, all answers to requests for admission, and all deposition testimony. The protective order may take the following form:

(1) Designation of confidential information must be made by placing or affixing on the document in a manner which will not interfere with its legibility the word "CONFIDENTIAL." One who provides material may designate it as "CONFIDENTIAL" only when such person/entity in good faith believes it contains trade secrets or nonpublic technical, commercial, financial, personal, or business information. Except for documents produced for inspection at the party's facilities, the designation of confidential information must be made prior to, or contemporaneously with, the production or disclosure of that information. In the event that documents are produced for inspection at the party's facilities, such documents may be produced for inspection before being marked confidential. Once specific documents have been designated for copying, any documents containing confidential information will then be marked confidential after copying but before delivery to the party who inspected and designated the documents. There will be no waiver of confidentiality by the inspection of confidential documents before they are copied and marked confidential pursuant to this procedure.

(2) Portions of depositions of a party's present and former officers, directors, employees, agents, experts, and representatives must be deemed confidential only if they are designated as such when the deposition is taken.

(3) Information or documents designated as confidential under this rule must not be used or disclosed by the parties or counsel for the parties or any persons identified in Subparagraph (4) for any purposes whatsoever other than preparing for and conducting the litigation in which the information or documents were disclosed (including appeals). The parties must not disclose information or documents designated as confidential to putative class members not named as plaintiffs in putative class litigation unless and until one or more classes has been certified.

(4) The parties and counsel for the parties must not disclose or permit the disclosure of any documents or information designated as confidential under this rule to any other person or entity, except that disclosures may be made in the following circumstances:

(i) Disclosure may be made to employees of counsel for the parties who have direct functional responsibility for the preparation and trial of the lawsuit. Any such employee to whom counsel for the parties makes a disclosure must be advised of, and become subject to, the provisions of this rule requiring that the documents and information be held in confidence.

(ii) Disclosure may be made only to employees of a party required in good faith to provide assistance in the conduct of the litigation in which the information was disclosed who are identified as such in writing to counsel for the other parties in advance of the disclosure of the confidential information.

(iii) Disclosure may be made to court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents. Prior to disclosure to any such court reporter or person engaged in making photocopies of documents, such person must agree to be bound by the terms of this rule.

(iv) Disclosure may be made to consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit. Prior to disclosure to any expert, the expert must be informed of and agree to be subject to the provisions of this rule requiring that the documents and information be held in confidence.

(5) Except as provided in Subparagraph (4), counsel for the parties must keep all documents designated as confidential which are received under this rule secure within their exclusive possession and must place such documents in a secure area.

(6) All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to collectively as "copies") of documents or information designated as confidential under this rule, or any portion thereof, must be immediately affixed with the word "CONFIDENTIAL" if that word does not already appear.

(7) To the extent that any answers to interrogatories, transcripts of depositions, responses to requests for admissions, or any other papers filed or to be filed with the Court reveal or tend to reveal information claimed to be confidential, these papers or any portion thereof must be filed under seal by the filing party with the Clerk of Court in an envelope marked "SEALED." A reference to this rule may also be made on the envelope.

(b) The designation of confidentiality by a party may be challenged by the opponent upon motion. The movant must accompany such a motion with the statement required by Civil L.R. 37.1. The party prevailing on any such motion must be entitled to recover as motion costs its actual attorneys fees and costs attributable to the motion.

(c) At the conclusion of the litigation, all material not received in evidence and treated as confidential under this rule must be returned to the originating party. If the parties so stipulated, the material may be destroyed.

Civil L.R. 33.1 Limitation on Interrogatories

(a) Any party may serve upon any other party up to 25 written interrogatories. The 25 permissible interrogatories may not be expanded by the creative use of subparts. The interrogatories are to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who must furnish such information as is available to the party.

(b) For the purpose of computing the number of interrogatories served:

(1) Parties represented by the same attorney or law firm must be regarded as one party.

(2) Interrogatories inquiring about the names and locations of persons having knowledge of discoverable information or about the existence, location, or custodian of documents or physical evidence must not be counted toward the 25 interrogatory limit.

(c) If a party believes that additional interrogatories are necessary, the party may promptly consult with the party to whom the additional interrogatories would be propounded and attempt to reach a written stipulation as to a reasonable number of additional interrogatories. The stipulation must not be filed with the Court unless a motion to compel answers becomes necessary. If a stipulation cannot be reached, the party seeking to serve additional interrogatories may move the Court for permission to serve additional interrogatories. The motion must show the necessity for the relief requested and must be accompanied by a

written statement that, after consultation with the adverse party to the motion and after sincere attempts to resolve their differences, the parties are unable to reach an accord concerning the additional interrogatories. The statement must also recite the date and time of such consultation and the names of all parties participating in it.

(d) The Court will not compel a party to answer any interrogatories served in violation of this rule.

Civil L.R. 33.2 Answers to Interrogatories

An objection or an answer to an interrogatory must reproduce the interrogatory to which it refers.

Civil L.R. 34.1 Objection to Request for Production

An objection to a request for production of documents must reproduce the request to which it refers.

Civil L.R. 36.1 Response to Requests for Admission

A response or an objection to a request for admission must reproduce the request to which it refers.

Civil L.R. 37.1 Discovery Motions

All motions for discovery pursuant to Fed.R.Civ.P. 26 through 37 must be accompanied by a written statement by the movant that, after personal consultation with the party adverse to the motion and after sincere attempts to resolve their differences, the parties are unable to reach an accord. The statement must also recite the date and time of such conference and the names of all parties participating in it.